

These are the tentative rulings for civil law and motion matters set for Tuesday, July 14, 2015, at 8:30 a.m. in the Placer County Superior Court. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by 4:00 p.m. today, Monday, July 13, 2015. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

NOTE: Effective July 1, 2014, all telephone appearances are governed by Local Rule 20.8. More information is available at the court's website, www.placer.courts.ca.gov.

EXCEPT AS OTHERWISE NOTED, THESE TENTATIVE RULINGS ARE ISSUED BY COMMISSIONER MICHAEL A. JACQUES AND IF ORAL ARGUMENT IS REQUESTED, ORAL ARGUMENT WILL BE HEARD IN DEPARTMENT 40, LOCATED AT 10820 JUSTICE CENTER DRIVE, ROSEVILLE, CALIFORNIA.

1. M-CV-0055127 Midland Funding LLC vs. Powles, Charles

Defendant's Motion to Set Aside Default is denied. Defendant has made no showing under Code of Civil Procedure section 473.5 to support his contention that he was not served with the summons and complaint in this action, or that service of summons did not result in actual notice. The proof of service in the court's file indicates that defendant was personally served with the summons and complaint on October 3, 2012. Defendant submits no evidence to rebut the presumption of proper service. Further, there is no proof of service showing that defendant's motion was properly served on plaintiff.

2. M-CV-0055805 Portfolio Recovery Associates, LLC vs. Powles, Charles

Defendant's Motion to Set Aside Default is denied. Defendant has made no showing under Code of Civil Procedure section 473.5 to support his contention that he was not served with the summons and complaint in this action, or that service of summons did not result in actual notice. The proof of service in the court's file indicates that defendant was personally served with the summons and complaint on October 3, 2012. Defendant submits no evidence to rebut the presumption of proper service. Further, there is no proof of service showing that defendant's motion was properly served on plaintiff.

3. M-CV-0059499 Provident Credit Union vs. Horton, Gary R., et al

Defendant's Motion to Compel Response to Demand for Bill of Particulars is granted.

Defendant duly served a Demand for Bill of Particulars on plaintiff on April 1, 2015. Plaintiff's responses have been overly general and incomplete. There is no indication that the nature of the instant case prohibits more particularity as to the requests made.

Plaintiff shall serve a further response to defendants' Demand for Bill of Particulars on or before July 31, 2015.

Defendant's request for sanctions is denied, as no such request was set forth in the notice or moving papers.

4. M-CV-0062649 Fusineg, Carol, et al - In Re the Petition of

Petitioner's Expedited Petition to Approve Compromise of Disputed Claim of Minor (Leila Fusineg) is denied without prejudice. The petition does not include a complete copy of the written attorney fee agreement; a copy of the agreement is required by ¶ 15(a) of the mandatory form petition (which must be complete, see C.R.C. 7.950.5(a)) and by C.R.C. 7.955(a)(2) (the court must review any representation agreement). Attachment 15(a), as filed, as well as Exhibit B to the Declaration of Christopher L. Kreeger filed July 1, 2015, refer to an "attached fee schedule", but none is attached to the fee agreement.

5. M-CV-0062974 Henry, Jordan vs. Maston, Melissa

Appearance required on July 14, 2015, at 8:30 a.m. in Department 40.

6. S-CV-0027179 Volen, Bart vs. CSCG, Inc., et al

Appearance required on July 14, 2015, at 8:30 a.m. in Department 40.

7. S-CV-0029131 Westwood Montserrat, Ltd. vs. AGK Sierra de Montserrat

The Motion to Confirm Arbitration Award and Motion to Vacate Arbitration Award, are continued on the court's own motion to July 28, 2015, at 8:30 a.m. in Department 40.

8. S-CV-0029141 Cooley, David, et al vs. Centex Homes

This tentative ruling is issued by the Honorable Charles D. Wachob. If oral argument is requested, it shall be heard on July 14, 2015, at 8:30 a.m. in Department 42.

Motion Objecting to Recommendation re: Production of Named Insured Claim Files

Ruling on Request for Judicial Notice

Travelers' request for judicial notice is denied as the documents of which judicial notice is requested have no bearing on the issues currently before the court.

Ruling on Motion

Travelers objects to the Special Master's Revised Recommendation and Proposed Order re: Centex Homes' Request for an Order Compelling Further Discovery Responses From St. Paul Fire & Marine Insurance Company & Travelers Property Casualty Company of America. Specifically, Travelers objects to the Special Master's recommendation that Travelers be required to produce to Centex Homes claim notes and claim files of Travelers' named insureds, American Woodmark and Ad Land Venture. Centex Homes has filed no opposition to Travelers' motion.

Travelers argues that all information contained within the subject claim files is protected from disclosure by attorney-client privilege. A communication by an insured to his insurance company may be privileged if it is intended for the information or assistance of the attorney in defending him. (*Travelers Ins. Co. v. Superior Court* (1983) 143 Cal.App.3d 436, 452.) However, the evidence submitted by Travelers in connection with its motion is insufficient to enable the court to determine that all information contained in the claim files for the named insured is protected by the attorney-client privilege. Travelers bears the burden of justifying its objections. (See *Evidence Code* sections 402, 405; *Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 97.) In this case, Travelers has not satisfied its burden of showing that the attorney-client privilege applies to the entirety of the claim files, or to any particular documents therein.

Travelers also argues that the Special Master erroneously recommended production of the entire claim files, when Centex actually only sought production of the claim notes within the files. A review of Centex's letter brief dated March 2, 2015, shows that Centex initially identified the discovery dispute as relating to Travelers' claim files for named insureds Ad Land Venture and American Woodmark. However, in substance, Centex repeatedly referred only to the claim notes for the named insured files as documents which Travelers should be compelled to produce. The court agrees that the documents to be produced, if any, should be limited to the claim notes for the named insured files.

The court notes that the Special Master made no finding regarding either applicability or waiver of the attorney-client privilege with respect to the claim notes for the named insured files and the Revised Recommendation and Proposed Order makes no mention of the issue. Notwithstanding the deficiencies noted with respect to Travelers' moving papers, the court will permit Travelers the opportunity to file additional evidence in support of the applicability of the attorney-client privilege to the claim notes for the named insured files. **On its own motion, the court continues the hearing on this matter to August 4, 2015 at 8:30 a.m. in Department 42.** Travelers may file supplemental evidence in support of its motion on or before July 23, 2015. Centex Homes may file a response on or before July 30, 2015.

Motion for Determination of Good Faith Settlement

Troy Scott's Custom Grading, Inc.'s Motion for Determination of Good Faith Settlement is continued on the court's own motion to July 21, 2015, at 8:30 a.m. in Department 40.

9. S-CV-0032447 Westwood Montserrat, Ltd. vs. AGK Sierra de Montserrat

The Motion for Relief From Stay is continued on the court's own motion to July 28, 2015, at 8:30 a.m. in Department 40.

10. S-CV-0033413 George, Damon, et al vs. Meritage Homes of California, Inc.

The Motion to be Relieved as Counsel by Perry J. Woodward and Terra Law LLP is granted, effective upon the filing of proof of service of the signed order upon plaintiffs and all parties who have appeared in the case. Cal. R. Ct., rule 2.1362(e).

11. S-CV-0033967 Jimenez, Jonathan, et al vs. Parkland Homes, Inc.

Financial Pacific Insurance Company's Motion for Leave to Intervene on behalf of cross-defendant Shelton Electric, Inc., a suspended California corporation, is granted. Moving party shall file and serve its complaint-in-intervention by no later than July 24, 2015.

12. S-CV-0034081 Leung, Arthur vs. Padilla, Hector, et al

Defendants Interstate Improvement, Inc. and Hector Padilla's Motion for Leave to File Cross-Complaint is granted. Moving defendants shall file and serve their cross-complaint on or before July 24, 2015.

13. S-CV-0034521 347 Group Inc. vs. Philip Hawkins Architect Inc.

Plaintiff's Motion for Leave to File Second Amended Complaint is granted. Plaintiff shall file its second amended complaint on or before July 24, 2015.

14. S-CV-0035041 Smith, Gregory, et al vs. Cal. State Board of Equalization

The Motion to be Relieved as Counsel is dropped in light of substitutions of attorney filed on June 15, 2015.

15. S-CV-0035095 Wolfrom, Adam, et al vs. Whitman, Nathaniel Henry

Petitioner's Expedited Petition to Approve Compromise of Disputed Claim of Minor (Kailee Wolfrom) is granted. If oral argument is requested, appearance of the minor is excused.

16. S-CV-0035549 Montgomery, Greg, et al vs. Meritage Homes of California

Appearance required on July 14, 2015, at 8:30 a.m. in Department 40.

17. S-CV-0035649 Pacific Gas and Electric Co. vs. DF Properties, et al

Appearance required on July 14, 2015, at 8:30 a.m. in Department 42.

18. S-CV-0035650 Pacific Gas and Electric Co. vs. Previte, Jack, Trustee, et al

Appearance required on July 14, 2015, at 8:30 a.m. in Department 42.

19. S-CV-0035651 Pacific Gas and Electric Co. vs. Baseline P & R, LLC, et al

Appearance required on July 14, 2015, at 8:30 a.m. in Department 42.

20. S-CV-0035652 Pacific Gas and Electric Co. vs. Baseline 80 Investors, LLC

Appearance required on July 14, 2015, at 8:30 a.m. in Department 42.

21. S-CV-0036356 City of Roseville, et al vs. Pacific Gas and Electric Co.

Appearance required on July 14, 2015, at 8:30 a.m. in Department 42.

22. S-CV-0036437 Duncan, Bruce vs. Nationstar Mortgage, LLC

The Order to Show Cause re Preliminary Injunction is continued to July 21, 2015, at 8:30 a.m. in Department 40.

The proof of service of the order to show cause and temporary restraining order issued on June 25, 2015, is insufficient to show service on defendant Nationstar Mortgage, LLC. In advance of the continued hearing date, plaintiff may file an amended proof of service demonstrating compliance with the court's order regarding service of the order to show cause and temporary restraining order. Plaintiff shall also serve notice of the continued hearing date on defendant, and file proof of service of the same.

The temporary restraining order granted on June 25, 2015, remains in effect until further order of the court.

23. T-CV-0001965 Loveless, W., et al vs. The Tavern Shores Association, et al

The Motion to Compel is continued on the court's own motion to July 21, 2015, at 8:30 a.m. in Department 40.

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